

NO. 42410-0-II  
(Consolidated with NO. 40912-7-II)

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**COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

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In re the Personal Restraint Petition of:

CHRISTOPHER ROBIN BRIEJER

Petitioner.

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**STATE'S RESPONSE TO PERSONAL RESTRAINT PETITION**

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## **I. AUTHORITY FOR RESTRAINT OF PETITIONER**

Christopher R. Briejer is restrained pursuant to a Judgment and Sentence entered in the Pierce County Superior Court Cause No. 09-1-04740-7. *See* attachment A.

## **II. ISSUE**

Whether this personal restraint petition should be dismissed where the Petitioner's claim for ineffective assistance of counsel is without merit.

## **III. FACTS RELEVANT TO RESPONSE**

The State asks the court to consider the facts set forth in the State's Response to the direct appeal in COA Cause No. 40912-7-II, at pages 1 through 7. Additionally, the following facts are specifically related to the Personal Restraining Petition.

In January of 2004, the Defendant moved to reopen a Department of Labor and Industries (L&I) claim for a back injury that occurred in February of 2000. II RP 27 – 30<sup>1</sup>. While working in self-employment on October 3, 2003, the defendant fell approximately 8 feet causing a crushing ankle injury. II RP 80-81. The defendant failed to disclose that fall to IME doctor, Dr. Ghidella, and failed to otherwise disclose the fall to L&I. III RP 198–203, 220. Dr. Ghidella performed an IME to determine

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<sup>1</sup> The State will use the same format for referring to the Report of the Proceedings as it did in the Respondent's Brief; i.e. IV RP refers to (June 9, 2010).

if the back condition had “worsened” due to continued work activity, without other causes. II RP 61; III RP 205, 206, 220. Dr. Ghidella testified that had the defendant disclosed the 8 foot fall he would not have recommended reopening the 2000 L&I back claim. Instead he would have found there was an intervening injury and thus an explanation for the new back symptoms, that were not just a worsening of the back due to continued construction work. II RP 84; III RP 205, 210–12.

Dr. Tencer has a Bachelor’s degree, Master’s degree, and Ph.D. in mechanical engineering. IV RP 50. His Ph.D. thesis was mechanical properties of the human lumbar spine. *Id.* He is a University of Washington full professor of orthopedic surgery, and also works at Harborview Medical Center. *Id.* at 49. Dr. Tencer teaches orthopedic surgeons basic fundamental concepts of pressure, stress, and force on the human body. *Id.* at 50. There is extensive testimony in the record regarding his education, experience, and qualifications in the field of biomechanics. *See* IV RP 48 – 57, 62 – 64, 68. He has testified as an expert over two hundred times; in the two years prior to the defendant’s trial he has testified about 40 times. *Id.* at 55, 76 - 77.

When the State offered Dr. Tencer as an expert witness, defendant’s trial counsel, Mr. Sepe, requested that the court clarify that Dr. Tencer’s expertise and testimony be limited to the field of engineering.

IV RP at 55. Additionally, Mr. Sepe stated that “[i]f it starts wondering off into concepts that a doctor should be testifying to, I’m going to object.” *Id.* The State laid a complete foundation for Dr. Tencer’s expertise in the field of bio-mechanics and limited his testimony to his area of expertise. IV RP 48 – 57, 62 – 64, 68.

Dr. Tencer stated that he was originally asked how much force it takes to fracture an ankle and how does that compare to the force to damage a spine. IV RP 58. During Dr. Tencer’s testimony he reiterated that he was not a medical doctor and he does not evaluate injuries. *Id.* at 59. He stated he can only describe the mechanics and the force involved in creating the injury. *Id.* at 59. He was asked his opinion as a biomechanical engineer, not as a doctor or medical expert. See, IV RP 67 – 68, 72, 75. Dr. Tencer was asked his opinion of how the fall that caused the ankle fracture, related to the back. His response was “. . . it put almost the same amount of force onto Mr. Briejer’s back.... And we know from testing on the spine that that level of force can cause damage to the spine.” *Id.* at 75. On re-direct, Dr. Tencer stated that to a high level of certainty “...the force that fractured the ankle is similar to the force that would cause damage to the spine.” *Id.* at 87.

Defendant’s counsel cross-examined Dr. Tencer. IV RP 76 – 86. During cross-examination Defendant’s counsel thoroughly questioned

Dr. Tencer's expertise and tried to discredit his ability to determine the forces involved in the back injury. *Id.* Dr. Tencer clarified that he did not do any kind of medical review and that he is not a medical doctor. *Id.* at 81, 82.

#### IV. ARGUMENT

**A. This personal restraint petition should be dismissed as Petitioner's claim for ineffective assistance of counsel is without merit**

In order to prevail in a personal restraint petition, the defendant must first establish a threshold showing of 1) a constitutional error that resulted in "actual and substantial prejudice" or 2) a non-constitutional error that constitutes a "fundamental defect which inherently results in a complete miscarriage of justice." *In re Cook*, 114 Wn.2d 802, 813, 792 P.2d 506 (1990). An appellate court will dismiss a personal restraint petition as a threshold matter if the petition fails to set forth a prima facie case of error warranting relief. A bare allegation of such error is not sufficient. An error which is per se prejudicial on direct review is not necessarily per se prejudicial on collateral review. *In re St. Pierre*, 118 Wn.2d 321, 330 – 331, 823 P.2d 492 (1992). "The burden of proving actual prejudice rests with the defendant. Possible prejudice will not be sufficient." *In re Hews*, 99 Wn.2d 80, 93, 660 P.2d 263 (1983); *see also*, *In re Davis*, 152 Wn.2d 647, 698, 700, 101 P.3d 1 (2004) (in personal

restraint petition, claiming ineffective assistance of counsel, the defendant bears the burden of showing *actual* prejudice.)

To demonstrate ineffective assistance of counsel, the defendant must prove (1) counsel was deficient, and (2) the deficiency resulted in prejudice. *State v. McFarland*, 127 Wn.2d 322, 334-35, 899 P.2d 1251 (1995). Counsel is deficient if his or her actions fall below an objective standard of reasonableness based on the totality of circumstances. *Id.* That deficiency prejudices the defendant if it creates a reasonable probability that, but for the deficiency, the outcome of the trial would have been different. *Id.* There is a “strong presumption” that counsel’s representation was adequate. *Strickland v. Washington*, 466 U.S. 668, 689, 104 S. Ct. 2052, 80 L.Ed.2d 674 (1984); *see also*, *McFarland*, 127 Wn.2d at 335.

The defendant claims that trial counsel was ineffective for failing to move to exclude Dr. Tencer’s testimony. The defendant’s claim is based on nine (9) superior court orders excluding Dr. Tencer’s testimony over an 11 year period in civil cases<sup>2</sup>. Defendant ignores the fact that over two hundred (200) other courts in that same time period did find Dr. Tencer qualified to testify as an expert witness. The mere fact that in a tiny fraction of cases where Dr. Tencer was offered as a witness his

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<sup>2</sup> Defendant also claims in his PRP, at page 8, that his trial “counsel never interviewed Dr. Tencer.” However because there is no evidence to support such a statement, this Court should disregard it. *See, In re Rice*, 118 Wn.2d 876, 886, 828 P.2d 1086 (1992).



testimony was excluded for reasons unrelated to this case does not show counsel was ineffective here.

Additionally, the Defendant relies on *Doherty v. Municipality of Metropolitan Seattle*, 83 Wn. App. 464, 921 P.2d 1098 (1996), claiming in the Personal Restraint Petition of Christopher Breijer (hereinafter Breijer's PRP), that *Doherty* "... held that a biomechanical engineer can not testify as to causation." See, Breijer's PRP, at page 7. However, *Doherty* does not support his claim.

In order to establish ineffective assistance of counsel, in a Personal Restraint Petition (PRP), for failing to move to exclude and/or object to testimony the defendant must prove that: 1) failing to object fell below the prevailing professional norms; 2) that the motion and/or objection would have likely been granted/sustained; and 3) that the result of the trial would have been different if the evidence/testimony had not been admitted. *In Re Davis*, 152 Wn.2d 647, 711, 714, 101 P.3d 1 (2004).

Defendant's arguments regarding ineffective assistance of counsel must fail as the Defendant does not meet the test to establish ineffective assistance of counsel.

**B. The defendant cannot demonstrate that defense counsel's failure to move to exclude Dr. Tencer's testimony fell below prevailing professional norms**

In this case, the issue was whether the defendant deceived the

Department of Labor and Industries (L&I) by withholding information or intentionally misleading L&I, in order to gain benefits that he was not entitled to. Dr. Tencer was one of several witnesses that supported the State's theory that the defendant's failure to disclose his fall from a height of 6 – 8 feet was relevant to whether or not the defendant's claim should have been reopened. The State never disputed the nature or extent of the defendant's back injury, nor did Defense.

Long after the trial, and after the superior court record had been provided to the court of appeals, Defendant attached nine (9) Superior Court Orders excluding the testimony of Dr. Tencer in various unrelated civil matters to Briejer's PRP. These Orders span the period of February 5, 1999 to June 30, 2010. Three (3) of the Orders exclude the testimony of Dr. Tencer without providing any basis. *See*, Briejer's PRP, Exhibits E, F, and G. Of the remaining Orders one excludes testimony regarding an experiment conducted by Dr. Tencer, and referenced in a declaration he submitted, as the "conditions were not substantially similar to the events at issue," in the case. *See* Briejer's PRP Exhibit I. Another excludes Dr. Tencer's testimony as cumulative, and logically irrelevant to the degree to which the particular plaintiff's were injured in the particular car accident. *See*, Briejer's PRP Exhibit H. Two other Orders, exclude the testimony because, unlike in this case, there was no foundational evidence

of general acceptance of reliability of biomechanics, and the extent of injuries sustained by that particular plaintiff was a medical question. *See*, Briejer's PRP Exhibit A and D. Another Order to exclude found that the grounds on which Dr. Tencer's opinion was based were too tenuous, as there were facts he had to assume or guess at. *See*, Briejer's PRP Exhibit C. Finally, an Order excluding Dr. Tencer's testimony was granted as his testimony was considered irrelevant to the issue of "the degree to which this particular plaintiff was injured in this particular automobile accident." *See*, Briejer's PRP Exhibit B, at page 2.

The defendant's "new evidence" of the nine (9) Orders previously excluding Dr. Tencer's testimony in civil personal injury cases does not establish that a competent attorney would have moved to exclude Dr. Tencer's testimony. First, the Orders show that nine (9) times in an eleven (11) year period some superior court judges determined that Dr. Tencer's testimony was not admissible in civil cases for various reasons. However, other courts, including this Court, have determined that Dr. Tencer's testimony was relevant, as he has testified as an expert over two hundred times; in the two years prior to the defendant's trial he has testified about 40 times. *Id.* at 55, 76 - 77.

Second, the State laid the foundation for Dr. Tencer's expertise in the field of biomechanics. *See* IV RP 48 – 57, 62 – 64, 68. The State did

not offer Dr. Tencer's testimony as that of a medical doctor. *See* IV RP 55 – 56. Furthermore Dr. Tencer did not testify to the extent of any injury of the defendant, instead he only testified as to the force that it would take to cause the type of injury the defendant had. Dr. Tencer's testimony related to the biomechanical forces that occur when a person falls. The limited medical testimony regarding the defendant's back injury came from a medical doctor, Dr. Sean Ghidilla.

Additionally, the theory of the defendant's case was never that the defendant was injured more or less than was claimed. Instead, defendant's trial counsel attempted to show that the defendant did disclose all relevant information and/or in the alternative, L&I and/or the doctors should have sought more information. Failing to seek exclusion of Dr. Tencer's testimony had no bearing on that defense.

Finally, trial counsel carefully asked the court to limit the scope of Dr. Tencer's testimony and expertise; he made certain that the court only recognize Dr. Tencer as an expert in biomechanical engineering and not as a medical expert. Trial counsel also, made clear on cross examination that Dr. Tencer was not testifying as a medical doctor. Counsel focused on impeaching the expert and his opinion. Counsel's statement that he would object when and if Dr. Tencer strayed into the medical field clearly demonstrates that he was fully aware of the limitations of the testimony,

and that the witness never did offer medical testimony. Therefore, the testimony of Dr. Tencer was both properly admitted and properly limited by trial counsel and the State. Defendant has failed to show that not moving to exclude Dr. Tencer's testimony fell below prevailing professional norms.

**C. Defendant cannot establish that the court would have granted a motion to exclude Dr. Tencer's testimony**

There is no evidence that the trial court would have granted a motion to exclude Dr. Tencer's testimony. The defendant appears to rely on the nine (9) superior court orders attached to Briejer's PRP and Doherty to show that the court would have granted such a motion.

In, *Doherty*, the court upheld the trial court's exclusion of an affidavit by a biomechanical engineer, stating that the affidavit did not "explain how her background in engineering qualified her to give an opinion in the anatomical, physiological, or medical sciences." *Doherty*, 83 Wn. App. at 469. However, in footnote 4 of the case, the Court states,

[m]etro concedes, and we tend to agree, that if Doherty had supplied a "revised or supplemental affidavit," setting forth in greater detail the nature of Ward's training, the affidavit likely would have been admissible.

*Id.*

Additionally, in *Ma'Ele v. Arrington*, 111 Wn.App. 557, 45 P.3d 557 (2002), this Court specifically addressed the admissibility of

Dr. Tencer's testimony. The appellant argued that that two chiropractor's had testified that the car accident at issue had caused appellant, Ma'Ele's, injuries and that only a medical expert can testify to causation. The Court stated that Dr. Tencer was not providing a medical opinion and instead "simply testified about the nature of the forces involved . . . and the likelihood of injury from such forces." *Ma'Ele v. Arrington*, 111 Wn. App. at 564. In *Ma'Ele*, Dr. Tencer provided the same type of testimony that he did in the present case, that of an expert in biomechanical engineering.

Therefore, the defendant has not established that the trial court would have granted a motion to exclude Dr. Tencer's testimony.

**D. The defendant cannot establish that the outcome of the trial would have been different had Dr. Tencer's testimony been excluded**

In this case the outcome of the trial would likely have been the same with or without Dr. Tencer's testimony. There was substantial evidence that the defendant failed to notify L&I of the fall on Oct. 3, 2003, the date he last worked, and he did so in order to obtain L&I benefits he was not entitled to receive. Further discussion of the evidence is set forth in the State's Response to the Direct Appeal under Cause No. 40912-7-II, at pages 7 – 14, and incorporated herein by reference.

Because it is clear that trial counsel's representation was not deficient, the Court does not need to determine if there was actual prejudice. *In Re Davis*, 152 Wn.2d at 710. However, because the defendant cannot prove that had Dr. Tencer's testimony been excluded, the outcome of the trial would have been different, he cannot prove actual prejudice.

#### V. CONCLUSION

Based upon the reasons set forth above, and in the State's Response to the Direct Appeal, the State respectfully requests that the Court dismiss the Personal Restraint Petition.

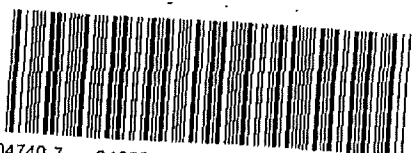
RESPECTFULLY SUBMITTED this 21<sup>st</sup> day of Nov. ~~October~~, 2011.

ROBERT M. MCKENNA  
Attorney General

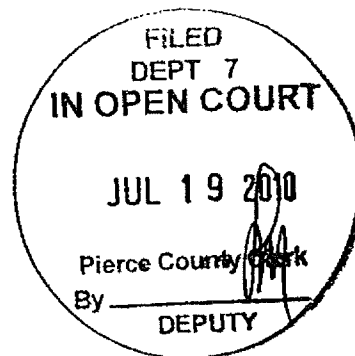
  
SUSAN SACKETT DANPULLO, WSBA #24249  
Assistant Attorney General

# ATTACHMENT A





09-1-04740-7 34680189 JDSWCD 07-20-10



## SUPERIOR COURT OF WASHINGTON FOR PIERCE COUNTY

STATE OF WASHINGTON,

Plaintiff,

CAUSE NO: 09-1-04740-7

vs

Christopher BREJER,

Defendant.

## WARRANT OF COMMITMENT

- 1) ☐ County Jail  
 2) ☒ Dept. of Corrections  
 3) ☐ Other Custody

JUL 20 2010

## THE STATE OF WASHINGTON TO THE DIRECTOR OF ADULT DETENTION OF PIERCE COUNTY:

WHEREAS, Judgment has been pronounced against the defendant in the Superior Court of the State of Washington for the County of Pierce, that the defendant be punished as specified in the Judgment and Sentence/Order Modifying/Revoking Probation/Community Supervision, a full and correct copy of which is attached hereto.

[ ] 1. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Pierce County Jail).

☒ 2. YOU, THE DIRECTOR, ARE COMMANDED to take and deliver the defendant to the proper officers of the Department of Corrections, and

YOU, THE PROPER OFFICERS OF THE DEPARTMENT OF CORRECTIONS, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement in Department of Corrections custody).

[ ] 3. YOU, THE DIRECTOR, ARE COMMANDED to receive the defendant for classification, confinement and placement as ordered in the Judgment and Sentence. (Sentence of confinement or placement not covered by Sections 1 and 2 above).

Dated: 7-19-2010

By direction of the Honorable

*[Signature]*  
JUDGE

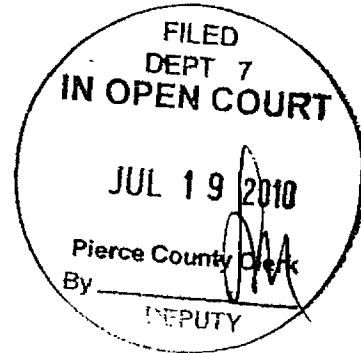
KEVIN STOCK  
CLERK

By:

*[Signature]*  
DEPUTY CLERK

CERTIFIED COPY DELIVERED TO SHERIFF

JUL 20 2010 By *[Signature]* Deputy



STATE OF WASHINGTON

ss:

County of Pierce

I, Kevin Stock, Clerk of the above entitled Court, do hereby certify that this foregoing instrument is a true and correct copy of the original now on file in my office.

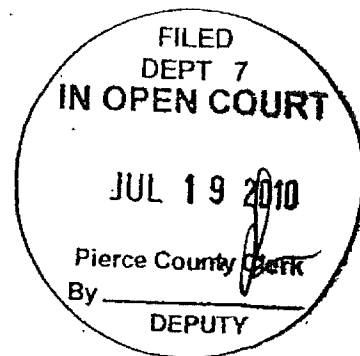
IN WITNESS WHEREOF, I hereunto set my hand and the Seal of Said Court this

\_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

KEVIN STOCK, Clerk

By: \_\_\_\_\_ Deputy

mld



# Superior Court of Washington County of

State of Washington, Plaintiff,

vs.

CHRISTOPHER ROBIN BRIEJER,  
Defendant.  
DOB: 04-10-1968  
PCN:  
SID:WA 13624305

No. 09-1-04740-7

Felony Judgment and Sentence –  
Prison  
(FJS)

JUL 20 2010

☒ Clerk's Action Required, para 2.1, 4.1, 4.3, 5.2,  
5.3, 5.5 and 5.7  
☐ Defendant Used Motor Vehicle  
☐ Juvenile Decline ☐ Mandatory ☐ Discretionary

## I. Hearing

1.1 The court conducted a sentencing hearing this date; the defendant, the defendant's lawyer, and the (deputy) *Assistant Attorney Gen* prosecuting attorney were present.

## II. Findings

2.1 **Current Offenses:** The defendant is guilty of the following offenses, based upon

☐ guilty plea (date) \_\_\_\_\_ ☒ jury-verdict: JUNE 11, 2010, ☐ bench trial (date) \_\_\_\_\_:

Count	Crime	RCW (w/subsection)	Class	Date of Crime
1	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(A)	B	4-21-09
2	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(A)	B	4-3-09
3	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(A)	B	3-24-09

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

☒ Additional current offenses are attached in Appendix 2.1a.

The jury returned a special verdict or the court made a special finding with regard to the following:

☐ The defendant used a **firearm** in the commission of the offense in Count \_\_\_\_\_. RCW 9.94A.602, 9.94A.533.

☐ The defendant used a **deadly weapon other than a firearm** in committing the offense in Count \_\_\_\_\_. RCW 9.94A.602, 9.94A.533.

☐ Count \_\_\_\_\_, Violation of the Uniform Controlled Substances Act (VUCSA), RCW 69.50.401 and RCW 69.50.435, took place in a school, school bus, within 1000 feet of the perimeter of a school

10-9-08435-6

grounds or within 1000 feet of a school bus route stop designated by the school district; or in a public park, public transit vehicle, or public transit stop shelter; or in, or within 1000 feet of the perimeter of a civic center designated as a drug-free zone by a local government authority, or in a public housing project designated by a local governing authority as a drug-free zone.

- ☐ The defendant committed a crime involving the manufacture of methamphetamine, including its salts, isomers, and salts of isomers, **when a juvenile was present in or upon the premises of manufacture** in Count \_\_\_\_\_. RCW 9.94A.605, RCW 69.50.401, RCW 69.50.440.
- ☐ Count \_\_\_\_\_ is a **criminal street gang**-related felony offense in which the defendant compensated, threatened, or solicited a **minor** in order to involve that minor in the commission of the offense. RCW 9.94A.833.
- ☐ Count \_\_\_\_\_ is the crime of **unlawful possession of a firearm** and the defendant was a **criminal street gang** member or associate when the defendant committed the crime. RCW 9.94A.702, 9.94A. \_\_\_\_.
- ☐ The defendant committed ☐ **vehicular homicide** ☐ **vehicular assault** proximately caused by driving a vehicle while under the influence of intoxicating liquor or drug or by operating a vehicle in a reckless manner. The offense is, therefore, deemed a violent offense. RCW 9.94A.030.
- ☐ Count \_\_\_\_\_ involves **attempting to elude** a police vehicle and during the commission of the crime the defendant endangered one or more persons other than the defendant or the pursuing law enforcement officer. RCW 9.94A.834.
- ☐ Count \_\_\_\_\_ is a felony in the commission of which the defendant used a **motor vehicle**. RCW 46.20.285.
- ☐ The defendant has a **chemical dependency** that has contributed to the offense(s). RCW 9.94A.607.
- ☐ The crime(s) charged in Count \_\_\_\_\_ involve(s) **domestic violence**. RCW 10.99.020.
- ☐ Counts \_\_\_\_\_ encompass the same criminal conduct and count as one crime in determining the offender score. RCW 9.94A.589.
- ☐ **Other current convictions listed under different cause numbers used in calculating the offender score are** (list offense and cause number):

	<b>Crime</b>	<b>Cause Number</b>	<b>Court (county &amp; state)</b>
1.			
2.			

- ☐ Additional current convictions listed under different cause numbers used in calculating the offender score are attached in Appendix 2.1b.

## 2.2 Criminal History (RCW 9.94A.525):

	<b>Crime</b>	<b>Date of Crime</b>	<b>Date of Sentence</b>	<b>Sentencing Court (County &amp; State)</b>	<b>A or J Adult, Juv.</b>	<b>Type of Crime</b>	<b>DV* Yes</b>
1							
2							
3							
4							
5							

\* DV: Domestic Violence was pled and proved.

- ☐ Additional criminal history is attached in Appendix 2.2.

☐ The defendant committed a current offense while on community placement/community custody (adds one point to score). RCW 9.94A.525.

☐ The prior convictions listed as number(s) \_\_\_\_\_, above, or in appendix 2.2, are one offense for purposes of determining the offender score (RCW 9.94A.525)

☐ The prior convictions listed as number(s) \_\_\_\_\_, above, or in appendix 2.2, are not counted as points but as enhancements pursuant to RCW 46.61.520.

### 2.3 Sentencing Data:

Count No.	Offender Score	Seriousness Level	Standard Range (not including enhancements)	Plus Enhancements*	Total Standard Range (including enhancements)	Maximum Term
1 - 54 AND 56, 57	55	II	43 - 57 MO.	N/A	43 - 57 MO.	10 YEARS

\* (F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. Hom, see RCW 46.61.520, (JP) Juvenile present, (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.

☐ Additional current offense sentencing data is attached in Appendix 2.3.

For violent offenses, most serious offenses, or armed offenders, recommended sentencing agreements or plea agreements are ☐ attached ☐ as follows: \_\_\_\_\_

### 2.4 ☐ Exceptional Sentence. The court finds substantial and compelling reasons that justify an exceptional sentence:

☐ below the standard range for Count(s) \_\_\_\_\_

☐ above the standard range for Count(s) \_\_\_\_\_

☐ The defendant and state stipulate that justice is best served by imposition of the exceptional sentence above the standard range and the court finds the exceptional sentence furthers and is consistent with the interests of justice and the purposes of the sentencing reform act.

☐ Aggravating factors were ☐ stipulated by the defendant, ☐ found by the court after the defendant waived jury trial, ☐ found by jury, by special interrogatory.

☐ within the standard range for Count(s) \_\_\_\_\_, but served consecutively to Count(s) \_\_\_\_\_

Findings of fact and conclusions of law are attached in Appendix 2.4. ☐ Jury's special interrogatory is attached. The Prosecuting Attorney ☐ did ☐ did not recommend a similar sentence.

### 2.5 Ability to Pay Legal Financial Obligations. The court has considered the total amount owing, the defendant's past, present, and future ability to pay legal financial obligations, including the defendant's financial resources and the likelihood that the defendant's status will change. The court finds:

☒ That the defendant has the ability or likely future ability to pay the legal financial obligations imposed herein. RCW 9.94A.753.

☐ The following extraordinary circumstances exist that make restitution inappropriate (RCW 9.94A.753): \_\_\_\_\_

☐ The defendant has the present means to pay costs of incarceration. RCW 9.94A.760.

### III. Judgment

3.1 The defendant is **guilty** of the Counts and Charges listed in Paragraph 2.1 and Appendix 2.1.

3.2 ☐ The court **dismisses** Counts \_\_\_\_\_ in the charging document.

### IV. Sentence and Order

**It is ordered:**

**4.1 Confinement.** The court sentences the defendant to total confinement as follows:

- (a) **Confinement.** RCW 9.94A.589. A term of total confinement in the custody of the Department of Corrections (DOC):

43 months on Count 1-54, 56, 57 months on Count \_\_\_\_\_  
 \_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_  
 \_\_\_\_\_ months on Count \_\_\_\_\_ months on Count \_\_\_\_\_

☐ The confinement time on Count(s) \_\_\_\_\_ contain(s) a mandatory minimum term of \_\_\_\_\_.

☐ The confinement time on Count \_\_\_\_\_ includes \_\_\_\_\_ months as enhancement for ☐ firearm ☐ deadly weapon ☐ VUCSA in a protected zone ☐ manufacture of methamphetamine with juvenile present.

Actual number of months of total confinement ordered is: \_\_\_\_\_.

All counts shall be served concurrently, except for the portion of those counts for which there is an enhancement as set forth above at Section 2.3, and except for the following counts which shall be served consecutively: \_\_\_\_\_.

The sentence herein shall run consecutively with the sentence in cause number(s) \_\_\_\_\_.

but concurrently to any other felony cause not referred to in this Judgment. RCW 9.94A.589.

Confinement shall commence immediately unless otherwise set forth here: \_\_\_\_\_.

- (b) **Credit for Time Served.** The defendant shall receive credit for time served prior to sentencing if that confinement was solely under this cause number. RCW 9.94A.505. The jail shall compute time served.
- (c) ☐ **Work Ethic Program.** RCW 9.94A.690, RCW 72.09.410. The court finds that the defendant is eligible and is likely to qualify for work ethic program. The court recommends that the defendant serve the sentence at a work ethic program. Upon completion of work ethic program, the defendant shall be released on community custody for any remaining time of total confinement, subject to the conditions in Section 4.2. Violation of the conditions of community custody may result in a return to total confinement for the balance of the defendant's remaining time of confinement.

**4.2 Community Custody.** (To determine which offenses are eligible for or required for community custody see RCW 9.94A.701)

(A) The defendant shall be on community custody for the longer of:

- (1) the period of early release. RCW 9.94A.728(1)(2); or  
 (2) the period imposed by the court, as follows:

Count(s) \_\_\_\_\_ 36 months for Serious Violent Offenses  
 Count(s) \_\_\_\_\_ 18 months for Violent Offenses  
 Count(s) \_\_\_\_\_ 12 months (for crimes against a person, drug offenses, or offenses involving the unlawful possession of a firearm by a street gang member or associate)

(B) While on community custody, the defendant shall: (1) report to and be available for contact with the assigned community corrections officer as directed; (2) work at DOC-approved education, employment and/or community restitution (service); (3) notify DOC of any change in defendant's address or employment; (4) not consume controlled substances except pursuant to lawfully issued prescriptions; (5) not unlawfully possess controlled substances while on community custody; (6) not own, use, or possess firearms or ammunition; (7) pay supervision fees as determined by DOC; (8) perform affirmative acts as required by DOC to confirm compliance with the orders of the court; and (9) abide by any additional conditions imposed by DOC under RCW 9.94A.704 and .706. The defendant's residence location and living arrangements are subject to the prior approval of DOC while on community custody.

The court orders that during the period of supervision the defendant shall:

☐ consume no alcohol.

☐ have no contact with: \_\_\_\_\_

☐ remain ☐ within ☐ outside of a specified geographical boundary, to wit: \_\_\_\_\_

☐ not serve in any paid or volunteer capacity where he or she has control or supervision of minors under 13 years of age.

☐ participate in the following crime-related treatment or counseling services: \_\_\_\_\_

☐ undergo an evaluation for treatment for ☐ domestic violence ☐ substance abuse

☐ mental health ☐ anger management, and fully comply with all recommended treatment. \_\_\_\_\_

☐ comply with the following crime-related prohibitions: \_\_\_\_\_

☐ Other conditions: \_\_\_\_\_

Court Ordered Treatment: If any court orders mental health or chemical dependency treatment, the defendant must notify DOC and the defendant must release treatment information to DOC for the duration of incarceration and supervision. RCW 9.94A.562.

**4.3 Legal Financial Obligations:** The defendant shall pay to the clerk of this court:

JASS CODE

PCV	\$ 500	Victim assessment	RCW 7.68.035
PDV	\$ _____	Domestic Violence assessment	RCW 10.99.080
CRC	\$ 200	Court costs, including RCW 9.94A.760, 9.94A.505, 10.01.160, 10.46.190	
		Criminal filing fee \$ 200	FRC
		Witness costs \$ _____	WFR
		Sheriff service fees \$ _____	SFR/SFS/SFW/WRF
		Jury demand fee \$ _____	JFR
		Extradition costs \$ _____	EXT
		Other \$ _____	
PUB	\$ 1,500	Fees for court appointed attorney	RCW 9.94A.760
WFR	\$ <del>1,500</del>	Court appointed defense expert and other defense costs	RCW 9.94A.760

FCM/MTH \$ \_\_\_\_\_ Fine RCW 9A.20.021; ☐ VUCSA chapter 69.50 RCW, ☐ VUCSA additional fine deferred due to indigency RCW 69.50.430

CDF/LDI/PCD \$ \_\_\_\_\_ Drug enforcement fund of \_\_\_\_\_ RCW 9.94A.760  
NTF/SAD/SDI

\$ \_\_\_\_\_ DUI fines, fees and assessments

CLF \$ \_\_\_\_\_ Crime lab fee ☐ suspended due to indigency RCW 43.43.690

\$ 100 DNA collection fee RCW 43.43.7541

FPV \$ \_\_\_\_\_ Specialized forest products RCW 76.48.140

\$ \_\_\_\_\_ Other fines or costs for: \_\_\_\_\_

RTN/RJN \$ \_\_\_\_\_ Emergency response costs (Vehicular Assault, Vehicular Homicide, Felony DUI only, \$1000 maximum) RCW 38.52.430

RTN/RJN \$ 364,004.33 Restitution to: Dept. of Labor + Industries, Attn. Cashier,  
claim No X954171, P.O. Box 44835, Olympia, WA  
\$ \_\_\_\_\_ Restitution to: 98504-4835

\$ \_\_\_\_\_ Restitution to: \_\_\_\_\_  
(Name and Address--address may be withheld and provided confidentially to Clerk of the Court's office.)

\$ 364,304.33 Total RCW 9.94A.760

☐ The above total does not include all restitution or other legal financial obligations, which may be set by later order of the court. An agreed restitution order may be entered. RCW 9.94A.753. A restitution hearing:

☐ shall be set by the prosecutor.

☐ is scheduled for \_\_\_\_\_ (date).

☐ The defendant waives any right to be present at any restitution hearing (sign initials): \_\_\_\_\_

☐ **Restitution** Schedule attached.

☐ Restitution ordered above shall be paid jointly and severally with:

Name of other defendant      Cause Number      (Victim's name)      (Amount-\$)

RJN

☐ The Department of Corrections (DOC) or clerk of the court shall immediately issue a Notice of Payroll Deduction. RCW 9.94A.7602, RCW 9.94A.760(8).

☒ All payments shall be made in accordance with the policies of the clerk of the court and on a schedule established by DOC or the clerk of the court, commencing immediately, unless the court specifically sets forth the rate here: Not less than \$ per month commencing 30 days after release  
RCW 9.94A.760.

The defendant shall report to the clerk of the court or as directed by the clerk of the court to provide financial and other information as requested. RCW 9.94A.760(7)(b).

☐ The court orders the defendant to pay costs of incarceration at the rate of \$ \_\_\_\_\_ per day, (actual costs not to exceed \$100 per day). (JLR) RCW 9.94A.760.



The financial obligations imposed in this judgment shall bear interest from the date of the judgment until payment in full, at the rate applicable to civil judgments. RCW 10.82.090. An award of costs on appeal against the defendant may be added to the total legal financial obligations. RCW 10.73.160.

**4.4 DNA Testing.** The defendant shall have a biological sample collected for purposes of DNA identification analysis and the defendant shall fully cooperate in the testing. The appropriate agency shall be responsible for obtaining the sample prior to the defendant's release from confinement. RCW 43.43.754.

☐ **HIV Testing.** The defendant shall submit to HIV testing. RCW 70.24.340.

**4.5 No Contact:**

☐ The defendant shall not have contact with \_\_\_\_\_ (name) including, but not limited to, personal, verbal, telephonic, written or contact through a third party until \_\_\_\_\_ (which does not exceed the maximum statutory sentence).

☐ The defendant is excluded or prohibited from coming within \_\_\_\_\_ (distance) of:  
☐ \_\_\_\_\_ (name of protected person(s))'s ☐ home/  
 residence ☐ work place ☐ school ☐ (other location(s)) \_\_\_\_\_, or  
☐ other location: \_\_\_\_\_,  
 until \_\_\_\_\_ (which does not exceed the maximum statutory sentence).

☐ A separate Domestic Violence No-Contact Order or Antiharassment No-Contact Order is filed concurrent with this Judgment and Sentence.

**4.6 Other:** \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

**4.7 Off-Limits Order.** (Known drug trafficker). RCW 10.66.020. The following areas are off limits to the defendant while under the supervision of the county jail or Department of Corrections: \_\_\_\_\_  
 \_\_\_\_\_

**V. Notices and Signatures**

**5.1 Collateral Attack on Judgment.** If you wish to petition or move for collateral attack on this Judgment and Sentence, including but not limited to any personal restraint petition, state habeas corpus petition, motion to vacate judgment, motion to withdraw guilty plea, motion for new trial or motion to arrest judgment, you must do so within one year of the final judgment in this matter, except as provided for in RCW 10.73.100. RCW 10.73.090.

**5.2 Length of Supervision.** If you committed your offense prior to July 1, 2000, you shall remain under the court's jurisdiction and the supervision of the Department of Corrections for a period up to 10 years from the date of sentence or release from confinement, whichever is longer, to assure payment of all legal financial obligations unless the court extends the criminal judgment an additional 10 years. If you committed your offense on or after July 1, 2000, the court shall retain jurisdiction over you, for the purpose of your compliance with payment of the legal financial obligations, until you have completely satisfied your obligation, regardless of the statutory maximum for the crime. RCW 9.94A.760 and RCW 9.94A.505(5). The clerk of the court has authority to collect unpaid legal financial obligations at any time while you remain under the jurisdiction of the court for purposes of your legal financial obligations. RCW 9.94A.760(4) and RCW 9.94A.753(4).

**5.3 Notice of Income-Withholding Action.** If the court has not ordered an immediate notice of payroll deduction in Section 4.1, you are notified that the Department of Corrections (DOC) or the clerk of the court

may issue a notice of payroll deduction without notice to you if you are more than 30 days past due in monthly payments in an amount equal to or greater than the amount payable for one month. RCW 9.94A.7602. Other income-withholding action under RCW 9.94A.760 may be taken without further notice. RCW 9.94A.7606.

#### 5.4 Community Custody Violation.

(a) If you are subject to a first or second violation hearing and DOC finds that you committed the violation, you may receive as a sanction up to 60 days of confinement per violation. RCW 9.94A.633.

(b) If you have not completed your maximum term of total confinement and you are subject to a third violation hearing and DOC finds that you committed the violation, DOC may return you to a state correctional facility to serve up to the remaining portion of your sentence. RCW 9.94A.714.

#### 5.5 Firearms. You may not own, use or possess any firearm unless your right to do so is restored by a superior court in Washington State, and by a federal court if required. You must immediately surrender any concealed pistol license. (The clerk of the court shall forward a copy of the defendant's driver's license, identicard, or comparable identification to the Department of Licensing along with the date of conviction or commitment.) RCW 9.41.040, 9.41.047.

#### 5.6 Reserved

#### 5.7 Motor Vehicle: If the court found that you used a motor vehicle in the commission of the offense, then the Department of Licensing will revoke your driver's license. The clerk of the court is directed to immediately forward an Abstract of Court Record to the Department of Licensing, which must revoke your driver's license. RCW 46.20.285.

#### 5.8 Other:

Done in Open Court and in the presence of the defendant this date

DEPT 7  
IN OPEN COURT

JUL 19 2010

Pierce County Clerk

By DEPUTY

7-19-2010  
Judge/Print Name: Frederick W. Fleming

Susan Sackett

Deputy Prosecuting Attorney  
WSBA No. 24249

Print Name: Susan Sackett  
Dan Pullo

Attorney for Defendant  
WSBA No. 2522

Print Name: JENNIFER  
VICKERS

Christopher Robin Briejer

Print Name: Christopher Robin  
Briejer

**Voting Rights Statement:** I acknowledge that I have lost my right to vote because of this felony conviction. If I am registered to vote, my voter registration will be cancelled.

My right to vote is provisionally restored as long as I am not under the authority of DOC (not serving a sentence of confinement in the custody of DOC and not subject to community custody as defined in RCW 9.94A.030). I must re-register before voting. The provisional right to vote may be revoked if I fail to comply with all the terms of my legal financial obligations or an agreement for the payment of legal financial obligations

My right to vote may be permanently restored by one of the following for each felony conviction: a) a certificate of discharge issued by the sentencing court, RCW 9.94A.637; b) a court order issued by the sentencing court restoring the right, RCW 9.92.066; c) a final order of discharge issued by the indeterminate sentence review board, RCW 9.96.050; or d) a certificate of restoration issued by the governor, RCW 9.96.020. Voting before the right is restored is a class C felony, RCW 29A.84.660. Registering to vote before the right is restored is a class C felony, RCW 29A.84.140.

Defendant's signature:

I am a certified or registered interpreter, or the court has found me otherwise qualified to interpret, in the \_\_\_\_\_ language, which the defendant understands. I interpreted this Judgment and Sentence for the defendant into that language.

I certify under penalty of perjury under the laws of the state of Washington that the foregoing is true and correct.

Signed at (city) \_\_\_\_\_, (state) \_\_\_\_\_, on (date) \_\_\_\_\_.

Interpreter \_\_\_\_\_

Print Name \_\_\_\_\_

FILED  
IN OPEN COURT

JUL 19 2010

Pierce County Clerk

By \_\_\_\_\_  
DEPUTY

## VI. Identification of the Defendant

SID No. WA 13624305

Date of Birth 04-10-1968

(If no SID complete a separate Applicant card  
(form FD-258) for State Patrol)

FBI No. 525054TA7

Local ID No. \_\_\_\_\_

PCN No. \_\_\_\_\_

Other \_\_\_\_\_

Alias name, DOB: \_\_\_\_\_

### Race:

☐ Asian/Pacific Islander ☐ Black/African-American ☒ Caucasian

☐ Native American

☐ Other: \_\_\_\_\_

### Ethnicity:

☐ Hispanic

☐ Non-Hispanic

### Sex:

☒ Male

☐ Female

**Fingerprints:** I attest that I saw the defendant who appeared in court affix his or her fingerprints and signature on this document.

Clerk of the Court, Deputy Clerk, \_\_\_\_\_ Dated: \_\_\_\_\_

### The defendant's signature:

Left four fingers taken simultaneously



Left  
Thumb

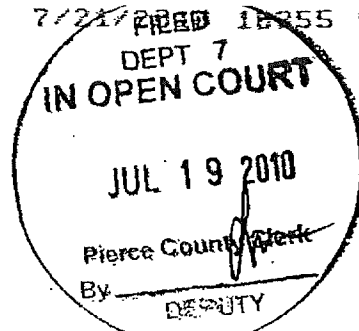


Right  
Thumb



Right four fingers taken simultaneously





**Superior Court of Washington  
County of**

**State of Washington, Plaintiff,**

vs.

CHRISTOPHER ROBIN BRIEJER,  
Defendant.

**No. 09-1-04740-7**

**Additional Current Offenses and Current  
Convictions Listed Under Different Cause  
Numbers Used in Calculating the Offender  
Score (Appendix 2.1a and 2.1b, Judgment and  
Sentence) (APX)**

2.1a The defendant has the following additional current offenses:

Count	Crime	RCW (w/subsection)	Class	Date of Crime
4	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	03-06-2009
5	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	02-24-2009
6	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	02-10-2009
7	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	01-27-2009
8	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	01-13-2009
9	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	12-30-2008
10	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	12-16-2008
11	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	12-02-2008
12	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	11-14-2008
13	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	11-04-2008
14	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	10-21-2008
15	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	10-07-2008
16	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	09-23-2008
17	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	09-09-2008
18	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	08-25-2008

19	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	08-12-2008
20	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	07-29-2008
21	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	07-15-2008
22	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	07-01-2008
23	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	06-17-2008
24	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	05-30-2008
25	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	05-20-2008
26	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	05-09-2008
27	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	04-25-2008
28	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	04-11-2008
29	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	03-14-2008
30	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	02-28-2008
31	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	02-14-2008
32	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	01-31-2008
33	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	01-17-2008
34	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	01-04-2008
35	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	12-26-2007
36	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	12-06-2007
37	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	11-26-2007
38	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	11-08-2007

39	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	10-11-2007
40	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	10-01-2007
41	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	09-14-2007
42	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	09-04-2007
43	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	08-16-2007
44	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	08-02-2007
45	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	7-20-2007
46	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	07-17-2007
47	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	06-21-2007
48	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	06-08-2007
49	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	05-31-2007
50	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	05-11-2007
51	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	02-6-2007
52	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	01-26-2007
53	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	11-22-2006
54	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	11-07-2006
56	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	01-13-2004 to 4-15- 2009
57	THEFT IN THE FIRST DEGREE	9A. 56.030(1)(a)	B	04-19-2004 to 4-28- 2009

Class: FA (Felony-A), FB (Felony-B), FC (Felony-C)

(If the crime is a drug offense, include the type of drug in the second column.)

2.1b The defendant has the following additional current convictions listed under different cause numbers used in calculating the offender score:

	<i>Crime</i>	<i>Cause Number</i>	<i>Court (county &amp; state)</i>
1.			
2.			

[ ] See additional sheets for more current offenses and current convictions listed under different cause numbers used in calculating the offender score.

**Superior Court of Washington  
County of**

**State of Washington, Plaintiff,**

**No. 09-1-04740-7**

vs.

**Additional Criminal History and Current  
Offense Sentencing Data (Appendix 2.2 and  
2.3, Judgment and Sentence) (APX)**

CHRISTOPHER ROBIN BRIEJER,

Defendant.

2.2 The defendant has the following criminal history (RCW 9.94A.525):

	<b>Crime</b>	<b>Date of Crime</b>	<b>Date of Sentence</b>	<b>Sentencing Court (County &amp; State)</b>	<b>A or J Adult, Juv.</b>	<b>Type of Crime</b>	<b>DV* Yes</b>
1							
2							
3							
4							
5							

\* DV: Domestic Violence was pled and proved.

2.3 The additional current offense sentencing data is as follows:

<b>Count No.</b>	<b>Offender Score</b>	<b>Serious- ness Level</b>	<b>Standard Range (not including enhancements)</b>	<b>Plus Enhancements*</b>	<b>Total Standard Range (including enhancements)</b>	<b>Maximum Term</b>
4	55	II	43 – 57 mo.		43 – 57 mo.	10 years
5	55	II	43 – 57 mo		43 – 57 mo.	10 years
6	55	II	43 – 57 mo		43 – 57 mo.	10 years
7	55	II	43 – 57 mo		43 – 57 mo.	10 years
8	55	II	43 – 57 mo		43 – 57 mo.	10 years
9	55	II	43 – 57 mo		43 – 57 mo.	10 years
	55	II	43 – 57 mo		43 – 57 mo.	10 years



10						
11	55	II	43 – 57 mo		43 – 57 mo.	10 years
	55	II	43 – 57 mo		43 – 57 mo.	10 years
12						
13	55	II	43 – 57 mo		43 – 57 mo.	10 years
14	55	II	43 – 57 mo		43 – 57 mo.	10 years
	55	II	43 – 57 mo		43 – 57 mo.	10 years
15						
16	55	II	43 – 57 mo		43 – 57 mo.	10 years
17	55	II	43 – 57 mo		43 – 57 mo.	10 years
18	55	II	43 – 57 mo		43 – 57 mo.	10 years
19	55	II	43 – 57 mo		43 – 57 mo.	10 years
20	55	II	43 – 57 mo		43 – 57 mo.	10 years
21	55	II	43 – 57 mo		43 – 57 mo.	10 years
22	55	II	43 – 57 mo		43 – 57 mo.	10 years
23	55	II	43 – 57 mo		43 – 57 mo.	10 years
24	55	II	43 – 57 mo		43 – 57 mo.	10 years
	55	II	43 – 57 mo		43 – 57 mo.	10 years
25						
26	55	II	43 – 57 mo		43 – 57 mo.	10 years
27	55	II	43 – 57 mo		43 – 57 mo.	10 years
28	55	II	43 – 57 mo		43 – 57 mo.	10 years
29	55	II	43 – 57 mo		43 – 57 mo.	10 years
	55	II	43 – 57 mo		43 – 57 mo.	10 years

30						
31	55	II	43 - 57 mo		43 - 57 mo.	10 years
32	55	II	43 - 57 mo		43 - 57 mo.	10 years
33	55	II	43 - 57 mo		43 - 57 mo.	10 years
34	55	II	43 - 57 mo		43 - 57 mo.	10 years
35	55	II	43 - 57 mo		43 - 57 mo.	10 years
36	55	II	43 - 57 mo		43 - 57 mo.	10 years
37	55	II	43 - 57 mo		43 - 57 mo.	10 years
38	55	II	43 - 57 mo		43 - 57 mo.	10 years
39	55	II	43 - 57 mo		43 - 57 mo.	10 years
40	55	II	43 - 57 mo		43 - 57 mo.	10 years
41	55	II	43 - 57 mo		43 - 57 mo.	10 years
42	55	II	43 - 57 mo		43 - 57 mo.	10 years
43	55	II	43 - 57 mo		43 - 57 mo.	10 years
44	55	II	43 - 57 mo		43 - 57 mo.	10 years
45	55	II	43 - 57 mo		43 - 57 mo.	10 years
46	55	II	43 - 57 mo		43 - 57 mo.	10 years
47	55	II	43 - 57 mo		43 - 57 mo.	10 years
48	55	II	43 - 57 mo		43 - 57 mo.	10 years
49	55	II	43 - 57 mo		43 - 57 mo.	10 years
50	55	II	43 - 57 mo		43 - 57 mo.	10 years

51	55	II	43 – 57 mo		43 – 57 mo.	10 years
52	55	II	43 – 57 mo		43 – 57 mo.	10 years
53	55	II	43 – 57 mo		43 – 57 mo.	10 years
54	55	II	43 – 57 mo		43 – 57 mo.	10 years
56	55	II	43 – 57 mo		43 – 57 mo.	10 years
57	55	II	43 – 57 mo		43 – 57 mo.	10 years

\*(F) Firearm, (D) Other deadly weapons, (V) VUCSA in a protected zone, (VH) Veh. hom. See RCW 46.61.520, (JP) Juvenile present, (SM) Sexual motivation, RCW 9.94A.533(8), (SCF) Sexual conduct with a child for a fee RCW 9.94A.533(9), (CSG) criminal street gang involving minor, (AE) endangerment while attempting to elude.

[ ] See additional sheets for more criminal history and current offense sentencing data.

NO. 42410-0-II

**COURT OF APPEALS, DIVISION II  
OF THE STATE OF WASHINGTON**

In re the Personal Restraint Petition of:

CHRISTOPHER ROBIN BRIEJER,

Petitioner.

(CONSOLIDATED  
WITH NO. 40912-7-II)

DECLARATION OF  
SERVICE

ALLISON CLEVELAND declares as follows:

On Wednesday, November 2, 2011, I deposited into the United  
States Mail postage prepaid and addressed as follows:

Lance M. Hester  
1008 S Yakima Avenue, Suite 302  
Tacoma, WA 98405

Copies of the following documents:

- State's Response to Personal Restraint Petition
- Declaration of Service.

I declare under penalty of perjury under the laws of the state of  
Washington that the forgoing is true and correct.

EXECUTED this 2nd day of November, 2011, at Seattle, Washington.



ALLISON CLEVELAND